

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**KELLY BEARD,**

**Plaintiff,**

**v.**

**NANCY A. BERRYHILL, Acting  
Commissioner of Social Security,**

**Defendant.**

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**Case No. CIV-17-1180-G**

**ORDER**

On March 28, 2019, the Court entered an Order and a Judgment reversing the decision of the Social Security Administration and remanding this case for further proceedings. *See* Doc. Nos. 23, 24. Now before the Court is Plaintiff Kelly Beard's Motion for Attorney's Fees under the Equal Access to Justice Act, 28 U.S.C. §§ 2412 et seq. *See* Pl.'s Mot. (Doc. No. 25). Defendant has filed no objection to Plaintiff's request within the time allowed. *See* LCvR 7.1(g).

Having considered Plaintiff's unopposed request and the relevant record, the Court finds that: "(1) [P]laintiff is a 'prevailing party'; (2) the position of the United States was not 'substantially justified'; and (3) there are no special circumstances that make an award of fees unjust" in this case. *Hackett v. Barnhart*, 475 F.3d 1166, 1172 (10th Cir. 2007) (quoting 28 U.S.C. § 2412(d)(1)(A)). Accordingly, the Court GRANTS Plaintiff's request and awards fees in the amount of \$10,121.30, with said amount to be paid directly to Plaintiff and sent in care of Miles Mitzner, P.O. Box 5700, Edmond, Oklahoma, 73083-5700. If attorney's fees are also awarded under 42 U.S.C. § 406(b), Plaintiff's counsel

shall refund the smaller award to Plaintiff in accordance with *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 6th day of June, 2019.

  
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CHARLES B. GOODWIN  
United States District Judge